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EXAMINER				
JUNTIMA, NITTAYA				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/748,782

**Applicant(s)**

CORTEZ ET AL.

**Examiner**

NITTAYA JUNTIMA

**Art Unit**

2416

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This action is in response to the Amendment filed on 5/4/2009.
2. **Claims 1-11** are pending (claims 12-25 were canceled).

#### ***Claim Objections***

3. **Claim 6** is objected to because of the following informalities:
  - in claim 6, line 3, "by" should be changed to "according to";
  - line 5, "where" should be changed to "wherein."

Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

**Claim 6** is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim 6 contains the following subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention: the combination of (i) pre-identifying a plurality of circuits grouped by said one or more end-switches and storing the results of the pre-identifying for a plurality of possible failure scenarios prior to said reception of said link failure in claim 6 and (ii) identifying a plurality of circuits affected by the link failure and grouping affected circuits after the reception

of said link failure as recited in claim 1 from which claim 6 depends. Note that Fig. 2 supports the limitations (ii) of claim 1 and paragraph 0057 of the specification discloses that the pre-identifying, grouping the circuits, and storing the identified circuits can be performed prior to a circuit failure. However, nowhere in the specification discloses the combination of (i) before the reception of link failure and (ii) after the reception of link failure as currently amended in claim 6.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claim 6** is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 6, it is unclear why and how the steps of pre-identifying the circuits and storing a plurality of circuits performed prior to the reception of the link failure would be followed by the steps of identifying and grouping affected circuits according to one or more end-switches performed after the reception of the link failure as currently recited in claim 6.

In addition, although the pre-identifying of affected circuits is supported by the specification, claims 1 and 6 are **two mutually exclusive embodiments** (i.e., claim 1 having the steps of identifying and grouping performed after the step of receiving a notification of link failure, and claim 6 having the steps of pre-identifying and grouping and storing performed prior to the step of receiving a notification of link failure). Therefore, they must be claimed independently.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. **Claims 1-2, 4-5 and 7-11** are rejected under 35 U.S.C. 102(e) as being anticipated by Rabie (US 7,333,438 B1).

**Regarding claim 1**, as shown in Fig. 3, Rabie teaches a method of reducing signaling load in a communication network (network 10 in Fig. 1) having a plurality of switches (edge nodes 16A-C and core nodes 18A-C, Fig. 1), said method comprising the steps of:

Receiving notification of a link failure at a switch (core node 18C, Fig. 1) adjacent to a link (link 28F, Fig. 1) associated with said network link failure (step 402, core node 18C must be notified of a link failure of 28F prior to determining the priorities of re-routing the connections after failure, col. 6, lines 43-47; see also col. 5, lines 27-36).

Identifying a plurality of circuits affected by said link failure by said switch (steps 406-412, core node 18C determines the connections to be recovered, col. 5, lines 27-36 and col. 6, lines 44-62).

Grouping affected circuits in accordance with one end-switch (edge node 16A, Fig. 1) to which a plurality of signaling messages have to be sent by said switch (step 414, as part of

creating release message bundles, core node 18C has to group affected circuits to be sent to edge node 16A, col. 4, lines 41-col. 5, lines 5, col. 6, lines 55-col. 7, line 1 and col. 10, lines 31-33).

Bundling said plurality of signaling messages by said switch (step 414, col. 6, lines 55-col. 7, line 1).

Regarding **claim 2**, Rabie also teaches forwarding said bundled signaling messages to one of said plurality of switches (the bundle of release messages is sent to edge node 16A, step 706 in Fig. 6, col. 9, lines 24-27; see also col. 4, lines 41-col. 5, lines 5).

Regarding **claim 4**, Rabie also teaches that wherein said forwarding step forwards said bundled signaling messages for circuits with a common end switch (edge node 16A, Fig. 1). See step 706 in Fig. 6, col. 9, lines 24-27; see also col. 4, lines 41-44, col. 5, lines 27-36.

Regarding **claim 5**, Rabie also teaches that wherein said signaling messages are release messages (col. 6, lines 55-62).

Regarding **claim 7**, Rabie also teaches that wherein said forwarding forwards said bundled signaling messages for circuits with a common end switch (edge node 16A, Fig. 1) along a common path (step 706 in Fig. 6, col. 9, lines 24-27; see also col. 4, lines 41-44, col. 6, lines 63-66).

**Claims 8, 9, and 10** are apparatus claims corresponding to method claims 1, 2, and 4, respectively, and are therefore rejected under the same reason set forth in the rejection of claims 1, 2, and 4, respectively with an addition of controller (inherent processor at core node 18C, Fig. 1 for controlling and performing the method steps set forth in claims 1, 2, and 4, respectively).

**Claim 11** is a computer-readable medium corresponding to method claim 1 and is therefore rejected under the same reason set forth in the rejection of claim 1 (see also col. 2, lines 61-col. 3, lines 6).

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. **Claim 3** is rejected under 35 U.S.C. 103(a) as being unpatentable over Rabie (US 7,333,438 B1) in view of an art of record, Doshi (US 2004/0008619 A1).

Regarding **claim 3**, Rabie does not explicitly teach that wherein said forwarding forwards said bundled signaling messages in at least one signaling packet.

However, Doshi teaches that bundled signaling messages are forwarded in at least one signaling packet (paragraph 0031).

Given the teaching of Doshi, it would have been obvious to one skilled in the art at the time of the invention to modify the teaching of Rabie to include bundling signaling messages in a single signal packet such that said forwarding would forward said bundled signaling messages in at least one signaling packet as claimed. The suggestion/motivation to do so would have been to reduce amount of time required to process multiple messages (Doshi, paragraphs 0011-0012).

***Response to Arguments***

10. Applicant's arguments with respect to claims 1-5 and 7-11 have been considered but are moot in view of the new ground(s) of rejection.

11. Applicant's arguments filed 5/4/2009 with respect to the rejection of claim 6 under 35 U.S.C. §112 have been fully considered but they are not persuasive.

A. In the remarks, the applicant argues that claim 6 as amended to note that identifying step and the grouping step are performed prior to the reception of the network even based upon possible failure scenarios as supported by paragraph 0057 of the specification now satisfies the requirements of 35 U.S.C. §112, second paragraph.

In response, the examiner respectfully disagrees. Note that claim 6 as amended and including limitations of claim 1 from which it depends now claims:

A method for reducing signaling load in a communication network having a plurality of switches, said method comprising the steps of:

- (a) receiving a notification of a link failure at a switch adjacent to a link associated with said link failure;
- (b) identifying a plurality of circuits affected by said link failure by said switch;



(c) grouping affected circuits in accordance with one or more end-switches to which a plurality of signaling messages have to be sent by said switch; and  
(d) bundling said plurality of signaling messages by said switch;  
(e) pre-identifying a plurality of circuits grouped by said one or more end-switches prior to said reception of said link failure based upon possible failure scenarios, and wherein results of performing said pre-identifying are stored for a plurality of possible failure scenarios.

As can be seen from the above, it is unclear why and how the step of (e) pre-identifying the circuits and storing a plurality of circuits *performed prior to the reception of the link failure* would still be followed by the steps of (b) identifying and (c) grouping affected circuits according to one or more end-switches *performed after the reception of the link failure* as currently recited in claim 6. Therefore, claim 6 is vague and indefinite and the rejection of 35 U.S.C. §112, second paragraph stands.

In addition, the combination of steps (b), (c ), and (e) introduces new matter as it is not supported by the specification. Therefore, claim 6 is also rejected under 35 U.S.C. §112, first paragraph.

### ***Conclusion***

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to NITTAYA JUNTIMA whose telephone number is 571-272-3120. The examiner can normally be reached on Monday through Friday, 9:00 A.M. - 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on 571-272-3174. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nittaya Juntima/

Application/Control Number: 10/748,782

Page 10

Art Unit: 2416

Primary Examiner, Art Unit 2416